

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

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In the Matter of:

Town of Bridgeville  
101 North Main Street  
Bridgeville, Delaware 19933

Respondent

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**ADMINISTRATIVE ORDER  
ON CONSENT**

Docket No. CWA-03-2016-0095DN

**I. STATUTORY AND REGULATORY AUTHORITY**

1. EPA has made the following findings of fact and issues this Administrative Order on Consent (Consent Order) pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) under Section 309(a) of the Clean Water Act (CWA or Act), 33 U.S.C. § 1319(a). This authority has been delegated by the Administrator to the Regional Administrator of EPA Region III, and further delegated to the Director, Water Protection Division, Region III.

2. Section 309(a) of the Act, 33 U.S.C. § 1319(a), provides, *inter alia*, that whenever on the basis of any information available to him the Administrator finds that any person is in violation of any permit condition or limitation implementing certain CWA sections in a permit issued under Section 402 of the Act, 33 U.S.C. § 1342, he shall issue an Order requiring such person to comply with such section or requirement.

3. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant (other than dredged or fill material) from a point source into waters of the United States

except in compliance with a permit issued pursuant to the National Pollutant Discharge Elimination System (“NPDES”) program under Section 402 of the Act, 33 U.S.C. § 1342.

4. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States or may authorize states to issue such permits pursuant to Section 402(i) of the Act, 33 U.S.C. § 1342(i). The discharges are subject to specific terms and conditions as prescribed in the NPDES permit.

5. Federal regulations promulgated pursuant to the CWA define the phrase “waters of the United States” to include, among other things, (i) all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (ii) all interstate waters; (iii) all other waters such as intrastate lakes, rivers and streams, including intermittent streams, the use, degradation, or destruction of which would or could affect interstate commerce; (iv) tributaries of waters of the United States, and (v) all waters adjacent to these waters. 40 C.F.R. § 122.2.

6. “Pollutant” as defined at Section 502(6) of the CWA, 33 U.S.C. § 1362(6), and 40 C.F.R. § 122.2 means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials . . . heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

7. “Discharge of a pollutant” includes “any addition of any pollutant or combination of pollutants to waters of the United States from any point source.” 40 C.F.R. § 122.2.

8. Section 502(5) of the CWA, 33 U.S.C. § 1362(5), defines the term “person” as “an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body”.

9. Section 402(a)(2) of the CWA directs the Administrator to prescribe conditions and limitations, including effluent limitations, for NPDES permits to ensure compliance with the requirements of the CWA. 33 U.S.C. § 1342(a)(2); see also 33 U.S.C. § 1311. Effluent limitations, as defined in Section 502(11) of the CWA, 33 U.S.C. § 1362(11), are restrictions on quantity, rate, and concentration of chemical, physical, biological, and other constituents which are discharged from point sources.

10. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), EPA authorized the State of Delaware to issue NPDES permits within Delaware on April 1, 1974.

**II. FINDINGS OF FACT, JURISDICTIONAL ALLEGATIONS AND CONCLUSIONS OF LAW**

11. The Town of Bridgeville, Delaware (“ Bridgeville” or “Respondent”) is a “municipality” within the meaning of Section 502(4) of the Act, 33 U.S.C. § 1362(4).

12. Bridgeville is a “person” within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).

13. At all times relevant to this Order, Respondent has owned and/or operated a municipal wastewater treatment facility (“Facility”), located at the intersection of Main Street and Route 13 Alternate in Bridgeville, Delaware.

14. Respondent’s Facility discharges from Point Source 001 to the Nanticoke River, which meets the definition of “waters of the United States” within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7) and 40 C.F.R. § 122.2.

15. On January 7, 2009 the Delaware Department of Natural Resources and Environmental Control (DNREC) issued NPDES Permit No. DE0020249, with an effective date of February 1, 2009 and an expiration date of January 31, 2012 (the 2009 NPDES Permit) to the Town of Bridgeville. The 2009 NPDES permit authorized Bridgeville to discharge from the Facility through outfall 001, in accordance with all the terms and conditions of the 2009 permit. The 2009 NPDES permit was administratively extended to April 1, 2014.

16. On February 27, 2014 DNREC issued NPDES Permit No. DE0020249, with an effective date of April 1, 2014 and an expiration date of March 31, 2019 (the 2014 NPDES Permit), to the Town of Bridgeville. The 2014 NPDES Permit authorized Bridgeville to discharge from the Facility through Point Source 001, in accordance with all the terms and conditions of the 2014 permit.



**Count I: Failure to Maintain Facilities Operation in Good Working Order and Operation**

17. Part II.A. Management Requirements, 3. Facilities Operation of Bridgeville's 2014 NPDES Permit requires that "The permittee shall at all times maintain in good working order and operate as efficiently as possible all collection and treatment facilities and systems (and related appurtenances) installed or used by the permittee for water pollution control and abatement to achieve compliance with the terms and conditions of this permit."

18. According to a DNREC inspection report dated September 8, 2014 and November 20, 2014, Respondent failed to properly maintain and operate all of its required Rotating Biological Contactor Tanks (RBCs) and its Chlorine Contact Chamber at the Facility during a September 8, 2014 DNREC inspection at the Facility. According to a November 20, 2014 DNREC "Manager's Deficiency Warning Letter" mailed to Bridgeville and explaining in more detail the observed NPDES permit violations, one of the Facility's RBCs had been removed and the entire area where the former RBC had been located was completely covered with sewage solids and was the source of thousands of flies and an unacceptable sewage odor. DNREC's letter described this condition as an unhealthy operation of a wastewater treatment plant and a violation of the 2014 permit. During the DNREC inspection of the Chlorine Contact Chamber, the inspectors observed that the treated wastewater in the contact chamber was very murky looking and that there was an excessive accumulation of solids in the chamber that reduced the effective disinfection of the effluent. DNREC's November 20, 2014 letter stated that this solids buildup was a violation of the 2014 permit and that Bridgeville needed to remove the excess solids in the bottom of the chamber. DNREC did not assess any civil penalty for the violations observed during the September 8, 2014 inspection. The removed and missing RBC and Chlorine Contact Chamber are part of Respondent's collection and treatment system installed or used by Respondent for water pollution control and abatement at the Facility.

19. Respondent's failure to ensure the proper operation and maintenance of all of its RBCs and its Chlorine Contact Chamber during the September 8, 2014 inspection is a violation of the 2014 permit and Section 301 of the Act, 33 U.S.C. § 1311

**Count II: Failure to Implement a Storm Water Plan in Accordance with the NPDES Permit**

20. Part III. Special Conditions, 3. Storm Water Plan of Bridgeville's 2009 NPDES permit requires the permittee to implement and maintain a Storm Water Plan (SWP) to minimize the discharge of contaminated storm water from its facility.

21. During a September 28, 2012 DNREC inspection of Respondent's Facility, the inspectors did not find any records that the Bridgeville employees and contractors had completed any annual Storm Water Pollution Prevention Plan training, as required by Bridgeville's Storm Water Plan, since June 2010. As a follow up of DNREC's September 28, 2012 inspection, DNREC issued a November 8, 2012 "Manager's Deficiency Warning Letter" to Bridgeville, requiring Bridgeville to ensure that all employees shall have received the required annual stormwater refresher training within 30 days of Bridgeville's receipt of the warning letter. DNREC did not assess any civil penalty for Bridgeville's failure to conduct the required annual training for the year 2011.

22. Respondent's failure to implement and maintain its Storm Water Plan by failing to complete the required annual stormwater training for its employees for 2011 is a violation of the 20009 NPDES Permit and Section 301 of the Act, 33 U.S.C. § 1311.

### **Count III: Failure To Meet NPDES Effluent Limitations**

23. Part I. B. Effluent Limitations and Monitoring Requirements, 1. Outfall 001- Effluent Limitations and Monitoring Requirements of Bridgeville's 2009 NPDES permit sets effluent limitations for discharges from outfall 001 of its municipal wastewater treatment facility. The 2009 NPDES Permit includes specific limitations for Total Nitrogen (TN) and BOD5, including a daily average loading, a daily average concentration, and a daily maximum concentration.

24. As reported in Respondent's DMRs submitted to DNREC, the attached chart (Attachment A) lists specific occasions that Bridgeville's discharges from outfall 001 of the Facility violated the effluent limitations set forth in Part I. B. of the 2009 Permit.

25. Each of Respondent's discharges on numerous occasions since January 2011, as listed in the attached chart, Attachment A, is a separate violation of the 2009 NPDES permit and Section 301 of the Act, 33 U.S.C. § 1311.

### **III. ORDER**

AND NOW, this 10<sup>th</sup> day of May, 2016, pursuant to section 309(a) of the Act, 33 U.S.C. § 1319(a), having taken into account the seriousness of the violations and any good faith efforts by Respondent to comply with section 301(a) of the Act, Respondent is hereby ORDERED, pursuant to Section 309(a) to do the following within three months of the effective date of this Consent Order:

26. Respondent shall take all actions necessary to comply with its 2014 Permit, including:

- a. Insure that the Storm Water Plan developed for the Facility is being implemented and maintained by conducting the required stormwater training for all employees on an annual basis;
- b. Develop an operations and maintenance plan for the Facility, including maintaining the checklist with the required items (Attachment B) as part of the Facility operations and maintenance plan;
- c. Submit a report every three months describing the progress of the Bridgeville wastewater treatment plant upgrade schedule (Attachment C), beginning April 1, 2016 and continuing until completion of the schedule events;
- d. Send copies of all the documents required by sections b. and c. of this paragraph to DNREC, to the attention of Glenn F. Davis, Program Manager, Compliance & Enforcement Branch, Surface Water Discharges Section, Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, Dover, Delaware 19901; and
- e. Submit copies of all documents prepared pursuant to this Paragraph 26 to Chad Harsh at the address listed in Paragraph 27 of this Consent Order.

27. All documents required by Paragraph 26 of this Consent Order shall be accompanied by a certification signed by a responsible municipal officer, as defined in 40 CFR § 122.22(d), that reads as follows:

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

Signed \_\_\_\_\_  
Title \_\_\_\_\_



All documents required herein shall be submitted to:

Chad Harsh  
NPDES Enforcement Branch  
Mail Code (3WP42)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

#### **IV. GENERAL PROVISIONS**

28. Issuance of this Consent Order is intended to address the violations described herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. Further, EPA reserves any existing rights and remedies available to it under the CWA, 33 U.S.C. §1311, et seq., the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction. Further, EPA reserves any rights and remedies available to it under the CWA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Consent Order, following its effective date (as defined below).

29. This Consent Order does not constitute a waiver or modification of the terms or conditions of the Respondent's NPDES permit. Compliance with the terms and conditions of this Order does not relieve Respondent of its obligations to comply with any applicable federal, state, or local law or regulation.

30. For the purposes of this proceeding, the Respondent neither admits nor denies the factual allegations and conclusions of law set forth in this Consent Order.

31. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Consent Order, including any right of judicial review pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

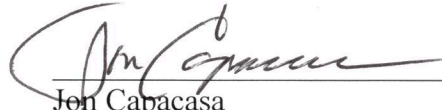
32. By entering into this Consent Order, Respondent does not admit any liability for the civil claims alleged herein.

**V. EFFECTIVE DATE**

This ORDER is effective after receipt by Respondent of a fully executed document.

SO ORDERED:

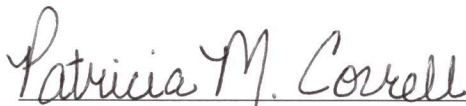
Date: 5/10/16

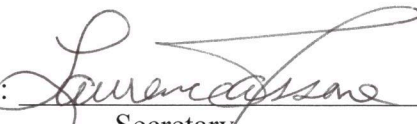
  
Jon Capacasa  
Director, Water Protection Division  
U.S. EPA Region III

AGREED TO:

COMMISSIONERS OF BRIDGEVILLE  
A municipal corporation of the State of Delaware

Date: 3/29/16

By:   
President

Attest:   
Secretary



## Bridgeville AOC: Attachment A

### Violation Table – Town of Bridgeville

<u>Date</u>	<u>Outfall</u>	<u>Type</u>	<u>Parameter</u>	<u>Limit</u>	<u>Result</u>
Jan-11	1	Daily Max	BOD	30 mg/l	85 mg/l
Jan-11	1	Monthly Avg	BOD	20 mg/l	45.6 mg/l
Jan-11	1	Avg Loading	BOD	79.4 lbs/day	109.7 lbs/day
Feb-11	1	Daily Max	BOD	30 mg/l	85.7 mg/l
Feb-11	1	Monthly Avg	BOD	20 mg/l	40 mg/l
Feb-11	1	Avg Loading	BOD	79.4 lbs/day	104.9 lbs/day
May-11	1	Daily Max	BOD	30 mg/l	39.9 mg/l
Oct-11	1	Monthly Avg	BOD	20 mg/l	23.4 mg/l
Nov-11	1	Monthly Avg	BOD	20 mg/l	22.6 mg/l
Oct-12	1	Daily Max	BOD	30 mg/l	37.1 mg/l
Oct-12	1	Daily Max	BOD	30 mg/l	48.3 mg/l
Oct-12	1	Daily Max	BOD	30 mg/l	39.2 mg/l
Oct-12	1	Monthly Avg	BOD	20mg/l	32.7 mg/l
Nov-12	1	Daily Max	BOD	30 mg/l	37.8 mg/l
Nov-12	1	Daily Max	BOD	30 mg/l	41 mg/l
Nov-12	1	Daily Max	BOD	30 mg/l	44.4 mg/l
Nov-12	1	Monthly Avg	BOD	20 mg/l	36.7 mg/l
Dec-12	1	Daily Max	BOD	30 mg/l	42.3 mg/l
Dec-12	1	Monthly Avg	BOD	20 mg/l	23.3 mg/l
Aug-13	1	Avg Loading	TN	52.9 lbs/day	73.6 lbs/day
Feb-14	1	Daily Max	BOD	30 mg/l	44.1 mg/l
Feb-14	1	Daily Max	BOD	30 mg/l	33.9 mg/l
Mar-15	1	Monthly Avg	BOD	20mg/l	20.4 mg/l

Develop Daily (M-F) Inspection Form/Checklist to include the following:

- Clarifiers – saw-tooth weirs, launders, etc; check for cleanliness, build-up of scum, solids, algae
  - Develop routine cleaning schedule to keep these clean
    - Cleaning schedule may need to be altered depending upon season; could require more frequent cleanings
- Chlorine Contact Chamber - check for build-up of solids/scum, clarity of water
  - Observation notes on any solids
  - Actions taken to remedy any noted issues

Develop Weekly Inspection Form

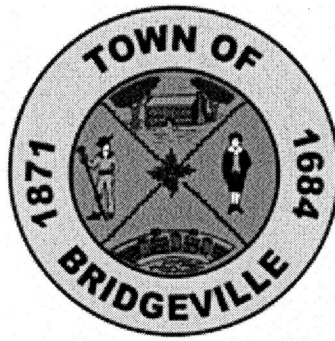
- RBC A2 Empty Chamber – check for solids build-up
  - Observation notes on status of chamber
  - Record of any contact to contractor for solids removal
  - Record of solids removal

Monthly Requirements – Please submit the following on a monthly basis with the DMR submission

- All raw data (during spray or stream discharge)
  - Monthly summary sheet
  - Lab records from contract laboratory (including Chain of Custody)
  - Documentation of Composite Sampler start and end times
  - In-house sampling results
- Copies of all daily and weekly inspection forms outlined above
- Copies of any contractor receipts for RBC chamber or Chlorine Contact Chamber cleanout
- Updates on WWTP Upgrades
  - Status report on any Engineering/Operational changes/updates/meetings, etc.

Additional Process Control Sampling/Testing/Data Generation

- **Influent** to, and **Effluent** from RBC's (once every other week)
  - BOD<sub>5</sub>, TSS
- **Effluent** from Primary Clarifier (once every other week)
  - TSS



## Estimated Wastewater Treatment Plant (WWTP) Upgrade Schedule

Town of Bridgeville  
Sussex County, Delaware  
December 2015

<u>Task</u>	<u>Date</u>
Funding application to Delaware Department of Natural Resources and Environmental Control (DNREC) Wastewater Planning Matching Grant (WWPMG) for completion of Preliminary Engineering/Environmental Report (PER/ER)	Complete (May 2015)
Funding application to United States Department of Agriculture-Rural Development (USDA-RD) for completion of Preliminary Engineering/Environmental Report (PER/ER)	Complete (June 2015)
USDA-RD approved funding for PER/ER	Complete (August 2015)
Submission of DNREC Notice of Intent (NOI) for project funding application	Complete (August 2015)
Funding application to Delaware DNREC Project Planning Advances for Wastewater, Surface Water, and Drinking Water Projects (PPAWWSWDW) for completion of Preliminary Engineering/Environmental Report (PER/ER) (required due to changes in DNREC funding programs)	Complete (September 2015)
DNREC approved funding for PER/ER (final Grant agreement approval still required)	December 2015
Commencement of PER/ER (pending final Grant agreement approval)	January 2016
Funding application to DNREC for full project funding	March 2016
Completion of PER/ER and submission for approvals	April 2016
Town referendum for funding	May 2016

<b><u>Task</u></b>	<b><u>Date</u></b>
DNREC & USDA-RD Approval of PER/ER (providing review times, comments received, and resubmissions required)	June 2016
Funding application to USDA-RD for full project funding	August 2016
Closing of DNREC funds for design only	October 2016
Commencement of full engineered plans	October 2016
Closing of USDA-RD for full project funding	February 2017
Completion of full engineered plans/submission for all related permits	March 2017
Final engineered plans and all related permits (providing time for reviews, comments received, and resubmissions required)	June 2017
Commencement of construction bidding	July 2017
Completion of construction bidding (open bids)	September 2017
DNREC/USDA-RD approval of construction bidding	November 2017
Closing of DNREC funds for construction	November 2017
Commencement of construction	December 2017
Completion of construction	December 2018
Startup and Commissioning	February 2019
Meet Permit Limits	March 2019



Town of Bridgeville, Delaware  
Docket No. CWA-03-2016-0095DN

CERTIFICATE OF SERVICE

I certify that on this date I caused to be sent by certified mail, return receipt requested, a copy of this "Administrative Order on Consent" to the following persons:

Dennis L. Schrader  
Attorney at Law  
Morris James Wilson Halbrook & Bayard LLP  
P.O. Box 690  
107 West Market Street  
Georgetown, Delaware 19947-0690


And the original and a copy delivered by hand to:

Regional Hearing Clerk (3RC00)  
U.S. Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

Additionally, I caused to be sent by first class mail a copy of this "Administrative Order on Consent" to the following persons:

Glenn F. Davis  
Program Manager  
Compliance & Enforcement Branch  
Surface Water Discharges Section  
Delaware Department of Natural Resources and Environmental Control  
89 Kings Highway  
Dover, Delaware 19901

Date: May 11, 2016

  
Robert J. Smolski  
Senior Assistant Regional Counsel